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## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

Fillmore Field Office

95 East 500 North

Fillmore, UT 84631

<http://www.blm.gov/ut/st/en/fo/fillmore.html>

DIV. OF OIL, GAS & MINING



IN REPLY REFER TO:  
3600 (UTW02000)  
UTU-79872  
UTU-88731

May 23, 2013

CERTIFIED MAIL # 7011 3500 0000 1992 4688  
RETURN RECEIPT REQUESTED

Mr. David Weston  
Allroc Fine Aggregates  
218 Paxton Avenue  
Salt Lake City, Utah 84101-3035

43 CFR 3600 –Mineral Materials

### DECISION

#### NONCOMPLIANCE ORDER

Routine field examinations conducted on September 26, 2012; and March 27, 2013, in Millard County, in part of Section 33, Township 23 South, Range 10 West, revealed the following on the Allroc Black Rock Quarry Negotiated Sale site and former 43 Code of Federal Regulations (CFR) §3809 Plan of Operations location, Bureau of Land Management (BLM) case file numbers UTU-88731 and UTU-79872:

In numerous places at the site, petroleum products, especially hydraulic oil, had been spilled on the soil and dirt road surface. Leaking containers of petroleum products were observed, and although warning signs had been appropriately placed at some points, they had often fallen or blown over. Trash and scrap materials were scattered about the site. Mobile machinery for operations was stored at the site, although there was no observed evidence of operations or use of the machinery for many months. The operability of some pieces of machinery was questionable.

Based on our inspections and our files, your activity is in violation of multiple written stipulations attached with your sale contract. Under 43 CFR §3601.61(c), the BLM may cancel a permit or contract for "default in the performance of any material term, covenant, or stipulation in the contract." Specifically, you are in violation of the following stipulations:



8. Generated trash and debris should be removed from public land and discarded at an authorized facility.
9. The Permittee will not dispose of any waste oil or petroleum products on public lands. The Permittee will properly contain and remove all waste oil to an authorized waste oil disposal facility. If any petroleum products are spilled, the Permittee must immediately contain the spill, remove and dispose of the substance spilled and all contaminated soil in an authorized disposal site.
20. Maintain the mine site in a good workman like manner remove all unused, inoperable machinery or scrap materials etc. from the site.

As specified in 43 CFR §3601.62 (a), "BLM will give you written notice of any defaults, breach, or cause of forfeiture, either in person or by certified mail. You have 30 days after receiving the notice:

- (1) To correct all defaults;
- (2) To request an extension of time in which to correct the defaults; or
- (3) To submit evidence showing to BLM's satisfaction why we should not cancel your contract or free use permit."

As specified in 43 CFR §3601.62, (b) "If you fail to respond to the notice under paragraph (a) of this section, or if delivery of the notice is refused, or not completed as described in § 1810.2 of this chapter, BLM may cancel the contract or permit."

Under 43 CFR § 3600.6, it is BLM's policy: (d) To protect public land resources and the environment and minimize damage to public health and safety during the exploration for and the removal of such minerals. To fulfill this responsibility, the BLM must instruct you to take the corrective actions listed below.

Under authority of 43 CFR § 3601.62, you are ordered, within 30 days from the effective date of this order to:

- 1) Remove trash and debris from the site and public lands and discard it an appropriate facility, as required by Stipulation Item 8.
- 2) Remove leaking petroleum product containers from the site. Remove contaminated soil from the site and dispose of it at an approved facility. These actions are required as specified in Stipulation Item 9.
- 3) Remove any inoperable or unused machinery from the site, and remove all scrap materials from the site. Machinery not used in operations for an extended period of time should be stored elsewhere. These steps, as well as a requirement to "maintain the site in a good workmanlike manner", are specified in Stipulation Item 20.

If you do not comply with this order, the BLM may take further action against you pursuant to §3601.61(b). As state in this subpart, the BLM may cancel your contract or free use permit if you:

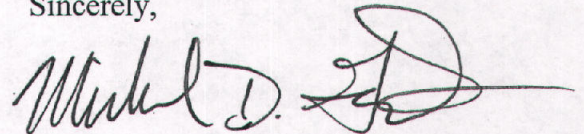


- (a) Fail to comply with the provisions of the Materials Act of 1947, as amended (30 U.S.C. 601 *et seq.*);
- (b) Fail to comply with any applicable regulations; or
- (c) Default in the performance of any material term, covenant, or stipulation in the contract.

The Department of the Interior may also request the United States Attorney to institute a civil action in United States District Court for an injunction or order to enforce this order to prevent you from conducting operations on the public lands in violation of this subpart, and collect damages resulting from unlawful acts. Additionally, if you fail to adhere to the terms of this order, you may face arrest and trial under section 303(a) of the Federal Land Policy Management Act (43 U.S.C. 1733(a)). If convicted, you will be subject to a fine of not more than \$100,000 or the alternate fine provided for in the applicable provisions of 18 U.S.C. 3571, or imprisonment not to exceed 12 months, or both, for each offense.

Appeal of the Decision – As specified in 43 CFR § 3601.80, “If a BLM decision adversely affects you, you may appeal the decision in accordance with parts 4 and 1840 of this title.” Form 1842-1 is attached with this letter: *Information on Taking Appeals to the Board of Land Appeals*.

Sincerely,



Michael D. Gates  
Field Manager

Enclosures:

UTU-88731 Stipulations (provided with contract on April 27, 2012)

Photographs

Form 1842-1 *Information on Taking Appeals to the Board of Land Appeals*

cc:

Paul Baker

UDOGM (S/027/0068)

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